

Meeting of 1997-7-29 Special Meeting

MINUTES
LAWTON CITY COUNCIL SPECIAL MEETING
JULY 29, 1997 - 5:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
Felix Cruz, City Attorney
Sandra Rench, Deputy City Clerk

The meeting was called to order at 5:00 p.m. by Mayor Marley. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State law.

ROLL CALL

Present: Richard Williams, Ward Two
Joe Dutcher, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Carol Green, Ward Seven
*Randy Warren, Ward Eight

Absent: Jody Maples, Ward One

Warren arrived at approximately 5:03.

BUSINESS ITEMS:

1. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit styled Clifford Dossey and Mildred Dossey v. City of Lawton, Case No. CJ-97-741, in the District Court of Comanche County, and take appropriate action in open session. EXHIBITS: NONE.

Mayor Marley said the Council needs to convene in executive session regarding an emergency item.

MOTION by Williams, SECOND by Purcell, to convene in executive session as recommended. AYE: Beller, Green, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 5:03 p.m. and reconvened in regular, open session at 5:25 p.m. with roll call reflecting all members present except Maples and Shanklin. Shanklin returned to the meeting after roll call.

Cruz reported the Mayor and Council met in executive session to discuss the city's proposed answer in the Dossey case and discussed with the Mayor and Council what the answer would consist of. He asked the City Council to approve a resolution authorizing the City Attorney to file an answer in the Dossey case in District Court based on the general terms discussed in executive session.

MOTION by Beller, SECOND by Green, to approve a resolution authorizing the City Attorney to file an answer in the Dossey case in District Court. AYE: Warren, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-95

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO FILE AN ANSWER IN THE LAWSUIT STYLED DOSSEY V. CITY OF LAWTON, CASE NUMBER CJ-97-741, IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA; AND AUTHORIZING THE CITY ATTORNEY TO THEREIN ADMIT, FOR THE PURPOSE OF OBTAINING AN EXPEDITIOUS RESOLUTION OF THIS MATTER, NONCOMPLIANCE WITH THE STATUTE GOVERNING ANNEXATION BY CITIES IN OKLAHOMA IN THE MANNER ALLEGED IN SAID SUIT.

2. Receive briefing and discuss possible options with regard to Wolf Creek drainage, and take appropriate action. EXHIBITS: NONE.

Schumpert said prior to discussing the budget the Council indicated they preferred to have a workshop to discuss Wolf Creek. He said they had an agreement with the Corps of Engineers for a report/project/plan and study which was tabled and this meeting is being held for the Public Works director to discuss with the Council the various activities and options

that relate to Wolf Creek.

Jerry Ihler provided and reviewed a summary of projects as follows:

Detention Reservoir B-1

October 22, 1996: Council authorized City staff to negotiate with the property owner for acquisition of the property located south of Rogers Lane and east of NW 67th Street for the purpose of construction of a proposed detention reservoir. The City was already negotiating for a portion of this property as part of the Rogers Lane Phase IV Road Reconstruction Project.

July 8, 1997: The property owner and the City entered into an agreement for the purchase of approximately 53.442 acres of land for the Rogers Lane Phase IV Road Reconstruction Project and the proposed site for the B-1 detention reservoir located south of Rogers Lane and east of NW 67th Street. It is anticipated that the closing for purchase of this property will be Thursday, July 31, 1997.

A-1 and C-1 Reservoirs

January 28, 1997: Council authorized staff to solicit Request for Proposals for professional engineering services for design and construction of Flood Control Reservoirs A-1 and C-1 located on Fort Sill.

April 21, 1997: Council Engineering Selection Committee reviewed proposals received from twelve (12) engineering firms and selected three (3) firms based on qualifications to submit fee proposals for engineering services for design and construction of A-1 and C-1 Flood Control Reservoirs on Ft. Sill.

June 3, 1997: Engineering Selection Committee tabled any action on recommending to the City Council award of an engineering contract for design and construction of A-1 and C-1 Flood Control Reservoirs until a special meeting could be held sometime after the budget was approved.

Corps of Engineers Agreement

January 14, 1997: Council received a presentation of the Wolf Creek Middle Branch Mitigation Report identifying and prioritizing drainage projects within the Wolf Creek Drainage Basin. Council accepted the "Plan of Action" deleting any reference to priorities in the plan and directed staff to coordinate and work with the Army Corps of Engineers regarding a joint project addressing the flooding issues along the Middle Branch of Wolf Creek.

May 13, 1997: Council tabled any action on approving an agreement with the U. S. Army Corps of Engineers, Tulsa District, to conduct a Feasibility Study for the Middle Branch of Wolf Creek until a special meeting could be held sometime after the budget was approved.

Lawton Country Club Golf Course

March 18, 1997: Meeting between representatives from the City of Lawton and the Lawton Country Club Golf Course to discuss improvements to the Middle Branch of Wolf Creek across the Country Club Golf Course property.

April 2, 1997: Mayor Marley sent a letter to Mr. Kenney Graham, president of the Country Club board, summarizing the City's understanding of the results of the March 18, 1997 meeting and providing a list of improvements to be accomplished as part of the project.

June 19, 1997: The City received a letter from Gary Wheatly, representative for the Country Club, indicating that the Lawton Country Club Golf Course Board of Directors would probably be willing to work with the City of Lawton on this storm mitigation project with Council assurance that the listed improvements from the April 2, 1997 letter would be made. One additional item the Board wants discussed is consideration for loss of income to the Country Club and Pro-Shop incurred by closing half the course for a period of several months. The City Attorney's Office is working on a draft agreement with the Country Club.

Ihler reviewed information regarding:

Detention Reservoir B-1:

Preliminary Estimated Costs: \$1,500,000 (Design & Const.)

City Share Funding: 100% - would be City project

Pros: (1) Reduces flooding on Middle Branch of Wolf Creek; (2) City has purchased right-of-way - could start project after engineering designs are complete; (3) Time frame through construction estimated to be 2 years - date from authorizing design.

Cons: Benefit/Cost ratio - Moderate (compared to the other 3 projects)

Location: 67th Street & Rogers Lane - property recently purchased.

RFP's for A-1 and C-1

Preliminary Estimated Costs: \$450,000 (Study & Design) \$4,000,000 (Construction & right-of-way)

City Share Funding: 100%

Pros: (1) Reduction in floodplain on east & west branch of Wolf Creek; (2) Time frame through construction estimated to be 4 years

Cons: (1) Benefit/Cost ratio - low - currently they don't experience a lot of damage to structures and property in these areas so there would be little or no relief to the citizens; (2) Does not solve Meadowbrook flooding problem; (3) High cost

Location: Fort Sill

Corps of Engineers Project:

Preliminary Estimated Costs: \$175,000 (City Share of Feasibility Study) \$3,500,000 (Estimated construction includes design and right-of-way)

City Share Funding: 35% or \$1,200,000 - Feasibility Study is a 50/50 cost share with the Corps of Engineers.

Pros: (1) Cost savings - 65% of the project would be federally funded; (2) Reduce flooding on Middle branch Wolf Creek

Cons: (1) Feasibility study may not justify project; (2) Project may not remove all homes from flooding; (3) Time frame through construction estimated to be 5 - 6 years

Location: Confluence of the middle branch and main branch of Wolf Creek northwest to Cache Road including Golf Course on Middle Branch Wolf of Creek.

Ihler said if the Corps agrees after the Feasibility Study that the benefit cost ratio is high enough to warrant them to move into engineering design and construction, the cost sharing portion of the project with the Corps would be 35% for the City and 65% for the Corps which would be approximately \$1,200,000 for construction. If the Corps does not determine the project is feasible the City would have already paid \$175,000 for the study and the Corps would not participate in construction because the results could show the cost benefit was not there for them. He said the project may not remove all of the homes from the floodway because the Mitigation report provided for a 60' wide bottom width channel to go through the entire middle branch of Wolf Creek and as a result of all the projects listed in the mitigation report, at the time it was constructed, all of those homes would be removed from the floodplain that currently exists. He said the channel as constructed would carry the water during a 100 year storm within its banks.

Beller referenced the 15 inches of rain Elgin received a few weeks ago and asked if Lawton was to get that amount of rain in the area in question, where would the City have been. He asked if they could feed that into the model to determine if they would have been inundated. Ihler said they could put some information into the model but talking to people in that area, receiving 9 inches of rain in as short a time period as 1 1/2 hours, the charts in that area would show it to be greater than a 500 year storm. He said if they transposed 9 inches of rain in 1 1/2 hours over their water shed, the middle branch of Wolf Creek, Lawton would be in big trouble.

Ihler said if they enter a joint agreement with the Corps the study may not remove all of the homes because the Corps is going to be looking at the benefit cost ratio and several alternatives for footage of channels. He said the study may show construction of a 40 foot channel which will remove most of the homes but if removing the last of the homes would increase the construction by many millions of dollars the benefit cost ratio may not be high enough to warrant the Corps participating in removing all of the homes. He said any project with the Corps would remove the majority of homes and the detention reservoir would handle the large storms they are attempting to take care of.

Purcell asked how many homes flood at this point. Ihler said a computer model for this area shows that during a 100 year storm 42 homes would be inundated. He said this is a primary drain channel and the Code recommends they design them to handle 100 year storms.

Shanklin asked how many times they have had a 100 year storm during the last 5 years. Ihler said with regard to the middle branch they have not received a 100 year storm. He said in October of 1983 they had a 100 year storm on the east branch of Cache Creek and he was told it also occurred in 1986 and understands it has occurred on the East Cache Creek basin. He said the 100 year storm provides that there is a 1% chance that this amount of rainfall may occur during any one year.

Shanklin said the bridge at 26th and Bishop is where all the water is being funneled. He said the new bridge at 38th and Bishop may only be 100 feet wide and 10 to 12 feet deep which will handle the water that can come through to Hawthorne's and McCaffree's properties but it can't get through at 26th and Bishop, it would go out of its banks. Ihler said if it can't pass the 100 year flow it will back up but they designed the 38th Street bridge to handle a 100 year storm. Shanklin said it matches 44th and Gore but it can't get through the mile. Ihler said they can discuss the report that was done several years ago south of Gore which indicated it is too flat and making improvements of possibly two cells to the Gore Boulevard box would provide minimal relief to the rest of the area. He said the area that gets inundated as a result of not straightening out the channel or removing debris on Cameron University property is the University, by the time the backwater takes effect and gets into Gore Boulevard there is little or no effect to the area upstream.

Shanklin asked if they have the expertise to say whether they have had a 100 year flood and there is a formula that FEMA has but Doe Doe Park which to his knowledge has never flooded is in the flood area. He said they don't know whether they have had a 100 year flood because they don't know how much rain fell in those tributaries. Ihler said they can look at the

rain gauges, the newspapers and different areas of the city and if they had the measurement over time they may be able to tell what the approximate year storm was and may be able to make that determination based on historical data for the year type of storm. Shanklin said last year they had areas that flooded on South 11th that have never flooded before and they don't know if that was a 10 year or as much as a 100 year flood. Ihler said if Shanklin is referencing the storm on August 28, 1996 they went back and looked at the chart and based on the rainfall over periods of time they had estimated it to be approximately a 25 year flood and there isn't much of a difference between the water surface elevation of a 25 year and a 100 year storm.

Shanklin asked if the bridge at 26th and Bishop is the size of the bridge he would have built. Ihler said he doesn't know what the size of the bridge is, it is the small tributary. Shanklin said that is where Wolf Creek comes across from Cameron and goes to Cache Creek. Ihler said Council was provided alternatives of costs and the 100 year storm or greater than the existing bridge it was an economic decision as well as what would be effected and the wish was to let the County build the bridge that doubled the capacity but wouldn't address the 100 year storm.

Schumpert said the Council was provided four options at that time. Shanklin said they should not have been provided the options because the water cannot all get through there. Schumpert said when the modeling was done for that area, because the drop of land elevation from Gore bridge across the creek is so slight that the size of the structure had little to do with what will happen because it is not sloped enough for the water to leave, because it is too flat.

Ihler said as it backs out and spreads out there is no damage to the property because there are no structures, just land, the ball fields at McMahon and Cameron University.

Purcell said in reference to the 26th and Bishop Bridge, if so much water gets to the bridge that it can't go under it, won't the water just flow over and around the bridge. Ihler said yes. Purcell said he doesn't understand if it can still flow over it and around it how it impacts on the flooding in Meadowbrook. Shanklin said any time you get out of the channel you have fences and debris and it will impede the flow of the water and back the water up.

Ihler continued with the review of the Corps Project and the time frame of 5 to 6 years for the project. He said the Corps will look at everything they can to expedite that if they were to enter into an agreement. The Feasibility study is approximately 2 years; plans and specification 1 year; right of way acquisition 1 year; and construction 1 1/2 to 2 years.

Beller asked if taking two years for the feasibility study would be because of the funding. Ihler said the funding for the feasibility study is available and the time factor is that they have to do the environmental impact studies, the mitigation reports and archeological reports which are all time consuming.

Beller said that would be a project they should be interested in.

Lawton Country Club Golf Course:

Preliminary Estimated Costs: \$600,000 (approx.) Design by City right-of-way cost undetermined

City Share Funding: 100%

Pros: (1) Reduces flooding on Middle Branch Wolf Creek; (2) Time frame through construction estimated to be 2 years pending right-of-way

Cons: (1) Benefit/Cost ratio - moderate; (2) Negotiation of right-of-way

Location: Confluence to northern boundary of Golf Course

Ihler said if they go forward with the Corps project they would not be pursuing the Country Club from the standpoint of their project, they would be asking the Corps to incorporate into their project the alternatives they have discussed with the Country Club and would work closely with them to try to accommodate some of those items and things they have discussed.

Sadler asked if the Country Club part is already part of the feasibility study or just north of Meadowbrook. Ihler said what they have presented to the Country Club would be looked at and analyzed as part of the feasibility study as one of the alternatives.

Purcell said the whole purpose of this is to solve the flooding problem in Meadowbrook and asked how many houses there today flood every time they get a big rain. Ihler said there are 10 to 12 that flood.

Purcell said the number of houses they would have to get rid of for a 100 year flood would be approximately 42. Schumpert said not that they would have to get rid of but it would effect 42 homes.

Purcell asked how wide they would have to make the middle branch of Wolf Creek to preclude those 42 homes from flooding. Ihler said they would need to construct a 60 foot wide channel. Purcell asked how many homes would have to be eliminated to build it. Ihler said he believed they would have to purchase 8 homes in order to construct the channel.

Ihler provided the Staff Recommendations: (1) Approve an agreement with the U. S. Army Corps of Engineers, Tulsa District, to conduct a Feasibility Study for the Middle Branch of Wolf Creek and authorize the Mayor and City Council to execute the agreement. (Funding source: \$1.5 million from 1995 CIP). (2) Authorize staff to receive fee proposals from the three most qualified firms short listed on the A-1, C-1 Reservoir Project for engineering services to design B-1 Reservoir

located south of Rogers Lane and east of NW 67th Street. (Funding source: \$1.5 million from 1995 CIP).

Ihler said staff is recommending moving forward with both recommendations and based on the reconnaissance study, the willingness of the Corps to look at the options the City provided, that they should take the risk and do the joint feasibility study to determine if the Corps will participate. He said entering into an agreement with the Corps will take care of the confluence all the way up to Cache Road.

Schumpert said even if they spend \$175,000 and the Corps chooses not to participate the City would still have the results of the studies, the preliminary work allows the City to go into the design and construction. Ihler said it provides the City with a multitude of information so that if the City needs to go forward on their own they would have the information available to proceed.

Purcell said if they do the feasibility study and the recommendation is for a 60 foot wide ditch where as a minimum they would have to purchase approximately 8 houses, asked if it would be cheaper to purchase those homes through the proper procedures to see what the problem is rather than spending \$4 to \$5 million to solve this problem. Ihler said they would still have 34 houses that will be inundated during a 100 year storm causing property damage. He said they have a strong idea that there are going to be 8 homes, no matter what they do, that will need to be purchased to construct some type of channel. He said it would be prudent on the part of the City to look at purchasing those homes when they are up for sale for \$80,000 to \$90,000 versus going through condemnation proceedings and possibly paying relocation costs and \$150,000 to \$200,000. Purcell said it alleviates the problem of those same people coming before the Council because they flood with even small amounts of rain. Ihler said if the Corps is going to participate it is his understanding the Corps will participate in the right-of-way acquisition cost of 65% and may want to wait until after the study. He said he wants to discuss with the Corps, in regard to purchasing homes, if this could go towards in-kind service towards the construction and right-of-way acquisition down the road if the city purchased those now.

Shanklin asked if the feasibility study would have anything to do with downstream from 6th and Bishop and East Cache Road or would they just ignore that and take care of this area hoping they don't have a flood in both branches. Ihler said this feasibility study basically operates north of Gore at the confluence.

Shanklin said he thinks it has to be done but is worried they are going to have all of those 1995 CIP moneys encumbered and when the 1995 CIP ends December 31, 1999 they will have spent all of the money on 10 or 12 houses that are flooding. He asked Bigham to provide a copy of the money FEMA has spent in Lawton, the premiums that have been brought in and the number of claims, it is staggering. He said with the premiums that are being collected it was only about \$250,000 that FEMA had spent on flooding in Lawton and the Council is considering spending \$8 to \$10 million on all of them against that figure and need to see that figure before they make a concrete decision. He said he has no problem with a feasibility study they are going to get it put on them anyway.

Ihler reviewed recommendation (2) provided above and requested authorization for the staff to request a rescoping of the original project asking those three firms that were chosen based on qualifications, to submit design proposals for design of B-1.

Shanklin asked if B-1 would run down to Cache Road and if that is where the Corps of Engineers will start their feasibility study. Ihler said it will start at Cache Road down to the confluence to include the Golf Course.

Sadler asked where they are on the funding for B-1. Ihler said they are going to close on Thursday. Sadler asked if the money has been set aside for the construction. Ihler said no it hasn't. Schumpert said if they were to approve what he is recommending they would take the money from the 1995 CIP.

Beller asked if Ihler is asking the Council to approve the recommendation. Schumpert said it would be both recommendations.

Purcell asked if they would be approving \$1.5 million for item (2) and if they would only need to obligate \$175,000 for the feasibility study, they wouldn't have to obligate the whole \$1.5 million at this point in time. Schumpert said the recommendation is that they don't need to do the feasibility study and then try to find the money to do the project. Purcell asked how long the feasibility study would take to get done. Beller said it will be two years, if they go forward with the feasibility study they need to be assured they have funding for it.

Schumpert said they would probably spend some of the money to take some corrective action after the feasibility study is completed whether the Corps participates or not.

Beller said if they do item one they almost have to do item two this evening, if they do the feasibility they should look for engineers to do the B-1. Schumpert said they are recommending the Detention Reservoir B-1 and the Corps of Engineers Project. He said on the B-1 engineering selection process Ihler is suggesting they request the three firms the Engineer Selection Committee selected for the A-1 and C-1 to develop fee proposals for the B-1 instead.

Shanklin said two is more important than one because all the water that is going to get into the middle branch is what falls on it south of the B-1 reservoir.

Beller said the participation of the Corps of Engineers with 65% funding makes it more palatable. Shanklin said they can

spend \$175,000 but that doesn't mean they have to encumber those funds right now. Beller said if they don't encumber the funds they can't insure they can go forward. Shanklin said there is no assurance they will go forward after the feasibility study is complete they may have some other emergencies come up.

Schumpert said an example is the WWTP which was started in 1971 and will be a 15 mgd plant in 1998 because they almost never encumber the money to do what they need to do.

Ihler said if at the end of the feasibility study the Corps will not participate they would still move forward with the project through with the City using those funds to make improvements from the confluence through the Golf Course.

Purcell said if the Corps tells them it is a bad idea and it won't solve their problem would they then proceed with their own money to do it. Schumpert said no. Purcell said the purpose of the feasibility study is to see if it is going to work and if they say no amount of money is going to make this work he wouldn't think they would spend any of the City money. Schumpert said they wouldn't, but they have the funds now and this appears to be a very important project to the City of Lawton which has the funds so why not set them aside or encumber them, and if it comes about that the Corps won't participate and it is the wrong way to approach it then the funds can be used for some other purpose. He said they would have the feasibility study and two years from now they are in another CIP and need \$1.0 million and the public votes down a sales tax, etc. then they are tasking the general fund to come up with that amount of money to do this project that the Corps will participate in if they only had a million dollars.

Purcell said if they spend the \$1.5 million dollars that solves the problem for 42 home owners and they may be able to use that money for thousands of people and asked what happens when they have to replace water pipes that keep breaking and need the money to redo water pipes that impact on 1,000 people rather than to put the money on something that only impacts 42 people between now and 1999.

Ihler said they could start utilizing the money to start purchasing the homes as they come up for sale.

Beller asked if Ihler is recommending they encumber the \$1.5 million. Ihler said that is the staff recommendation.

Williams said even if they encumber it does not mean they can't use it for something else or that some other funding source may not become available in the future.

Sadler said they need to encumber the money because they are going to spend it one way or another they may find some type of grant or matching funds.

Shanklin said they need to leave some of this money out there for the people to vote for another CIP rather than spending it all on Meadowbrook when not everyone lives there and they don't drive through it.

Purcell asked if they encumber \$1.5 million and find they need it for something else, can they change it. Schumpert said until they identify a project and award the contract, that money is simply setting there, it is like fund 35.

Williams said he thinks they should adopt both of the recommendations and work towards the feasibility study on number 2.

MOTION by Williams, SECOND by Beller, to recommend staff's recommendation (1) and (2) and encumber \$3 million for the two projects.

Beller said they need to identify the funding and if they need it somewhere they would have it and recommended "earmarking" the funding rather than "encumbering".

AMENDED MOTION by Williams: to "earmark" the funds rather than "encumbering" the funds for these two projects.

VOTE ON AMENDED MOTION: to recommend staff's recommendation (1) and (2) and earmark \$3 million for the two projects. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

Williams said in regard to the article in the newspaper on the rodent problem in Elmer Thomas Park, he talked to and challenged a lady for her and her friends to get involved in this issue and they may want to start some type of fund to help pay for the humane capture of those little critters and find some other source that would take them off the City's hands.

There was no further business and the meeting adjourned at 6:15 p.m.